

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

JERRI BOON,

Plaintiff,

v.

**UNION PACIFIC RAILROAD
COMPANY**, a Nebraska corporation;
**BROTHERHOOD OF LOCOMOTIVE
ENGINEERS AND TRAINMEN**, a
division of the International
Brotherhood of Teamsters; and
UNITED TRANSPORTATION UNION,

Defendants.

Case No.: 3:10-cv-01044-HU

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS**

SIMON, District Judge.

On January 23, 2013, Magistrate Judge Dennis J. Hubel filed Findings and Recommendations (“F&R”) in this case. Dkt.109. Judge Hubel recommended that the court grant Defendant Union Pacific’s motion to dismiss. Dkt. 79. Judge Hubel also recommended that Plaintiff’s claims for breach of contract and defamation should be dismissed with prejudice. No party has filed objections.

Under the Federal Magistrates Act, the court may “accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate’s findings and recommendations, “the court shall make a

de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

If, however, no objections are filed, the Magistrates Act does not prescribe any standard of review. In such cases, “[t]here is no indication that Congress, in enacting [the Magistrates Act] intended to require a district judge to review a magistrate’s report[.]” *Thomas v. Arn*, 474 U.S. 140, 152 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (*en banc*) (court must review *de novo* magistrate’s findings and recommendations if objection is made, “but not otherwise”).

Although in the absence of objections no review is required, the Magistrates Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Rule 72(b) of the Federal Rules of Civil Procedure recommend that “[w]hen no timely objection is filed,” the court review the magistrate’s findings and recommendations for “clear error on the face of the record.”

No objections having been made, the court follows the recommendation of the Advisory Committee and reviews Magistrate Judge Hubel’s F&R for clear error on the face of the record. No such error is apparent. Accordingly, the court **ADOPTS** Magistrate Judge Hubel’s Findings and Recommendation, Dkt. 109.

IT IS SO ORDERED.

Dated this 25th day of February, 2013.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge